In the Supreme Court of the United States

OCTOBER TERM, 1969

No. 1560

GEORGE SOMMER AND NIMROD SOLOMON, PETITIONERS

v.

UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

MEMORANDUM FOR THE UNITED STATES IN OPPOSITION

After a jury trial in the United States District Court for the Northern District of Illinois, petitioners were convicted of conspiracy to transport, and of actually transporting, a forged check in interstate commerce, in violation of 18 U.S.C. 2314. Petitioner Solomon was sentenced to concurrent prison terms of five and ten years respectively; petitioner Sommer was sentenced to concurrent five-year terms. The court of appeals (Judge Swygert dissenting) affirmed on February 24, 1970 (Pet. App. A), and a petition for rehearing *en banc* was denied on April 9, 1970. The petition for a writ of certiorari was not filed until May 11, 1970 and accordingly is out of time under Rule 22(2).

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In any event, there is no reason to grant the writ. The issues raised in the petition relate solely to the adequacy of procedures at trial for ascertaining the effect (if any), on those jurors who read it, of a single newspaper article printed during the trial, which petitioners claim was so inherently prejudicial as to require a mistrial. The issues are thoroughly canvassed in the lengthy opinion of the majority below, on which we rely here (Pet. App. A, 6–14).

It is therefore respectfully submitted that the petition for a writ of certiorari should be denied.

ERWIN N. GRISWOLD,
Solicitor General.

JUNE 1970.

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